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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/725,466 | 11/30/2000 | Brian Charles Pike | BDL.24 | 9440 |

466 7590 12/20/2002

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ARLINGTON, VA 22202

EXAMINER

TAWFIK, SAMEH

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3721

DATE MAILED: 12/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/725,466

Applicant(s)

PIKE, BRIAN CHARLES

Examiner

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langen et al. (4,936,077) in view of Farrelly (5,611,193).

Langen discloses a carton filling device comprising a conveyor (20) for moving cartons and objects to be located in the cartons simultaneously down a track with the objects respectively facing opposite to open ends of the cartons located at one side of the conveyor, see for example (Figs. 1 and 2); pushers (via 62) for engaging the objects and pushing them towards and into the open ends of the cartons under control of a control mechanism adapted to move the pushers not only across the conveyor but also down the conveyor at the same speed of movement as the conveyor and to return the pushers back to the start position once the objects have been inserted into the carton, see for example (Fig. 1). Langen does not exactly disclose a single control arm carrying at least two ⁶⁸pushers nor control mechanism adapted to move the control arm in one direction not only across the conveyor, nor to cause the pusher arm to be raised. However, Farrelly discloses that a single control arm (Fig. 1; via arm 42 and 43) carrying at least two pushers (via arrangement ⁶⁴47) and control mechanism adapted to move the control arm in one direction not only across the conveyor, see for example (Figs. 1-3; via moving the control arm 42 and 43 in two directions at the same time) and to cause the pusher arm to be raised (Fig. 1).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Langen's filling device by substituting Langen's pushing stations 14 and 16 by having controlled arm 42 and 43 capable of moving in one direction as taught by Farrelly, in order to provide a simple and inexpensive loading arrangement wherein articles can be transferred between a container, on a container conveyor and a transfer station on an article conveyor (column 1, lines 60-65).

Regarding claim 2: the pusher arm (via 44) carries two to four pushers for engaging respective objects (Figs. 1 and 2).

Regarding claim 4: a support to control the movement of the control arm, see for example (Figs. 1 and 2).

Response to Arguments

Applicant's arguments filed 11/25/2002 have been fully considered but they are not persuasive.

Applicant argue in pages 4 and 5 of the arguments that there is a difference between the current invention and the device shown in Langen. The device of the invention acts to move a number of pushers carried on a single control arm across in a diagonal direction, the control arm is then moved back over the top of the conveyor in the reverse direction for further operation. The examiner believes such limitations for pointing out of the movement of the pushers carried on a single control arm across in a diagonal direction were not clear in the claims. Therefore, passed on the amended claim 1 the examiner further provided Farrelly reference to clearly shows such a novelty of having a control arm moving in two directions at the same time such as in a diagonal direction to package, place, or could be for pushing product into container is old, well

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known, and available in the art. The examiner also believes that it is obvious that Farrelly reference clearly discloses that the control arm is then moved back over the top of the conveyor in the reverse direction for further operation.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809. The examiner can normally be reached on Monday - Friday from 8:00 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rada, Rinaldi can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-7769 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ST.

December 18, 2002

A handwritten signature in cursive script, appearing to read "Eugene Kim".

**EUGENE KIM
PRIMARY EXAMINER**